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EXAMINER

NEURAUTER, GEORGE C

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/981,817		FROUIN, LAURENT	
	Examiner		Art Unit	
	George C. Neurauter, Jr.		2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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DETAILED ACTION

Claims 1-20 are currently presented and have been examined.

It is noted that a new Examiner has been assigned to this case. Any future correspondence regarding this case should be directed to the Examiner listed below.

Allowable Subject Matter

Prosecution on the merits of this application is reopened on claims 1-20 are considered unpatentable for the reasons indicated below.

Applicant is advised that the Notice of Allowance mailed is vacated as noted in the 37 CFR 1.313(a) notice sent 16 September 2005. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

The indicated allowability of claims 1-20 is withdrawn in view of the newly discovered reference(s) to "IRC-38" along with the cited prior art. Rejections based on the newly cited reference(s) follow.

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Claim Objections

Claims 1-20 are objected to because of the following informalities:

The claims recite limitations such as "this candidate host", "this host candidate", "this host", and "this at least one host". Current Office practice regarding the recitation of elements in order to provide proper antecedent basis is the use of two paradigms, wherein the claim recites "a [element]" when introducing an element and then recites either "the [element]" or "said [element]" to refer back to the element. The Examiner suggests the Applicant choose one of these two ways to refer back to claimed elements in order to avoid antecedent basis issues. See MPEP 2173.05(e).

Claims 14 and 16 recite "Communication node..." in the preamble. The claims should read "The communication node..." as has been done, for example, regarding claims 10, 18, and 19.

Appropriate correction is required.

35 USC 112, 6th paragraph Interpretation

The Examiner notes that claims 13-19 recite limitations that are presumed to invoke 35 USC 112, 6th paragraph. If the Applicant wishes such interpretation to be given to the claims, the Applicant must show for the record why the claim language properly invokes 35 USC 112, 6th paragraph and identify the

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function and corresponding structure. The Applicant must also amend the claims, if necessary, to meet the requirements of the 3-prong analysis as prescribed in MPEP 2181. The Examiner also suggests that the Applicant amend the specification, if necessary, to explicitly state what structure corresponds to the recited function with reference to the claimed terms and phrases, provided no new matter is introduced. See 37 CFR 1.75(d) and MPEP 2181.

Claim Interpretation

The Examiner emphasizes for the record that the claims employ broad language including the use of words and phrases such as "node", "host", "subnetwork", "search signal", "technical features", "operating commands", and "starting up" or "actuating" a host, which have broad meanings in the art and have multiple embodiments and interpretations that extend well beyond the scope of the specification. In addition, the Applicant has not argued any narrower interpretation of the claim language, nor amended the claims significantly enough to construe a narrower meaning to the limitations.

Since the claims breadth allows multiple interpretations, meanings, and embodiments, which are broader than Applicant's disclosure, the Examiner is required to interpret the claim limitations in terms of their broadest reasonable

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interpretations while determining patentability of the disclosed invention. See MPEP 2111. In other words, the claims must be given their broadest reasonable interpretation consistent with the specification and the interpretation that those skilled in the art would reach. See *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000), *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999), and *In re American Academy of Science Tech Center*, 2004 WL 1067528 (Fed. Cir. May 13, 2004).

Any term that is not clearly defined in the specification must be given its plain meaning as understood by one of ordinary skill in the art. See MPEP 2111.01. See also *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989), *Sunrace Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir. 2003), *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d 1132, 1136 (Fed. Cir. 2003).

The interpretation of the claims by their broadest reasonable interpretation reduces the possibility that, once the claims are issued, the claims are interpreted more broadly than justified. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). Also, limitations appearing in the specification but not recited in the claim are not read into the

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claim. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore, the failure to significantly narrow definition or scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. Such broad interpretation is shown in the rejections listed below.

The elements "node", "host", "subnetwork", "search signal", "technical features", "operating commands", and "starting up" or "actuating" a host defined within the specification and recited in claims 1-20 will be given its broadest reasonable interpretation and will be interpreted by the Examiner that is consistent with the disclosures of the specification and the interpretation that those skilled in the art would reach. See MPEP § 2111.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 13 is rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. The claim recites a "data storage means which is removable, partially...and which can be read by a computer and/or a

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microprocessor storing instructions of a computer program..."

This invention is inoperative since the invention cannot operate if the data storage means is partially removed and partially engaged.

Claim Rejections - 35 USC § 112

Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claim recites a "data storage means which is removable, partially...and which can be read by a computer and/or a microprocessor storing instructions of a computer program..." The specification does not reasonable convey one skilled in the art regarding the "partially removable" data storage means that the inventor(s) had possession of the claimed invention.

Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art

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to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim recites a "data storage means which is removable, partially...and which can be read by a computer and/or a microprocessor storing instructions of a computer program..." The specification does not describe the "partially removable" data storage means to order to enable one skilled in the art to make and or use the invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

For example, claim 1 recites "identifying a candidate host, which may be the host to be actuated". This limitation is unclear since it introduces a relative term that renders the

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claim indefinite. Also, claim 1 recites "transmitting a search signal containing information representing technical features of a host to be actuated from said first node in a direction of the nodes in the network including the first node". The Examiner cannot understand what "direction" the signal is being transmitted.

Claim 1 also recites "...operating commands transmitted by a control interface attached to a second node to which said host is connected..." and "starting this host candidate by means a control interface attached to the node to which said candidate host is connected". It is unclear as to whether the claim is introducing another "control interface" or is referring back to the control interface recited earlier. The Examiner will assume that the claim is referring back to the control interface recited earlier in order to avoid piecemeal examination and to give the Applicant a better appreciation for relevant prior art. See, e.g., *Ex parte Ionescu*, 222 USPQ 537 (Bd. App. 1984) and MPEP 2173.06. It is also unclear as to how the host candidate is "started" and whether this "starting" is related to the earlier recited "actuating" of a host.

Claim 1 further recites "identifying a candidate host". It is unclear as to which element is doing the identifying.

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Claim 2 recite "...and to be controlled by means of a control interface...". Again, it is unclear as to whether the claim are introducing another "control interface" or is referring back to the control interface recited earlier.

Claim 3 recites "...wherein, in order to put hosts in communication..." It is unclear as to whether this limitation is related to the earlier recited "starting" or "actuating".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by "IRC-38 Infrared Receiver Product Information" ("IRC-38").

Regarding claim 1, "IRC-38" discloses a method of managing a communication network comprising a sub-network having communication nodes interconnected by links conveying digital signals, and a plurality of hosts to exchange data via the subnetwork, wherein, in order to actuate, from a first node ("infrared remote control" or "source remote control"), any host

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("equipment") based on operating commands ("output") transmitted by a control interface attached to a second node to which said host is connected, the method comprises the steps of:

transmitting a search signal containing information representing the technical features of a host to be actuated from said first node in a direction of the nodes in the network including the first node; (page 1, specifically "The IRC-38 Infrared Receiver receives infrared codes from a source remote control...")

identifying a candidate host, which may be the host to be actuated on the basis of compatibility between the technical features of this candidate host and the technical features indicated in the search signal; Starting this host candidate by means of a control interface attached to the node to which said candidate host is connected, wherein, if this candidate host proves not to be the host to be actuated, a search signal is transmitted once again in order to continue the search, whereas, if this host does prove to be the host to be actuated, operating commands are sent to it by means of said control interface, which also interrupts the search. (page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to

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output signals...Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it. For example, if it sees a Sony Power On..."

Regarding claim 2, "IRC-38" discloses the method according to claim 1, wherein said network comprises at least one host ("equipment") to exchange analogue signals by means of a data interface and to be controlled by means of a control interface wherein technical features to control this at least one host are obtained by analyzing the technical features of said data interface. (page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it.")

Regarding claim 3, "IRC-38" discloses the method according to claim 1, wherein, in order to put two hosts in communication, the method is implemented for at least one of said two hosts. (page 1, specifically "Adaptable to almost any type of serial or TTL controllable device")

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Regarding claim 4, "IRC-38" discloses the method according to claim 3, wherein said two hosts are connected to the same node in said sub-network ("RS232 (Serial)"). (page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output...you can use almost any remote to control it. For example, if it sees a Sony Power On....If it sees an NEC code structure...Adaptable to almost any type of serial or TTL controllable device")

Regarding claim 5, "IRC-38" discloses a method of determining technical features in a communication network comprising a sub-network having communication nodes interconnected by links conveying digital signals, and a plurality of hosts to exchange data via the sub-network, at least one host amongst said hosts exchanging signals by means of a data interface and being controlled by means of a control interface, said method comprising:

Analyzing a technical feature of said data interface; and obtaining certain technical features to control this at least one host based on the analysis. (page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver

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receives infrared codes from a source remote control and converts them to output signals...Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it.")

Regarding claim 6, "IRC-38" discloses a communication node that forms part of a communication network comprising a sub-network having communication nodes interconnected by links conveying digital signals, and a plurality of hosts able to exchange data via the sub-network, said node comprising:

At least one data interface for connection to a host to exchange signals; ("RS-232" (Serial)" or "TTL")

At least one control interface to transmit operating commands to the host; and a unit for supplying signals representing these operating commands received from other nodes to said control interface, wherein said unit supplies the signals based on the data interface connected to the host. (page 1, specifically "page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals)

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Regarding claim 7, "IRC-38" discloses a communication node that forms part of a communication network comprising a sub-network having communication nodes interconnected by links conveying digital signals, and a plurality of hosts to exchange data via the sub-network, said node comprising;

At least one receiver to receive operating commands intended for any host in the network; and a unit to produce signals representing these operating commands and being transmitted to other nodes, wherein said unit produces the signals based on a technical feature of the host. (page 1, specifically "page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals)

Claims 8 and 9 are rejected since the claims recites a data processing apparatus and communication network that contain substantially the same limitations as recited in claims 6 and 7.

Regarding claim 10, "IRC-38" discloses the communication network according to claim 9, wherein said data represent audio-visual information. (page 1, specifically "Now also available with off the shelf code set which recognizes Sony, NEC, and RC5

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infrared code structures which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it. For example, if it sees a Sony Power On..."

Claims 11 and 12 are rejected since the claims recite a data storage means that contains substantially the same limitations as recited in claims 1, 2, and 5.

Regarding claim 13, "IRC-38" discloses a communication node that forms part of a communication network comprising a sub-network consisting of communication nodes interconnected by links conveying signals, and a plurality of hosts being able to exchange data via the sub-network, said node comprising:

means for comparing technical features indicated in a received search signal with technical features of a host to which said node is connected; and a control interface that starts up and operates said host based on a comparison result by the comparing means. (page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it.")

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Regarding claim 14, "IRC-38" discloses a communication node according to Claim 13, further comprising:

at least one data interface for connecting a host to exchange analog signals and to receive operation commands from said control interface; and a unit for supplying said control interface with received signals which represent these operating commands. (page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it.")

Regarding claim 15, "IRC-38 discloses a communication node that forms part of a communication network comprising a sub-network consisting of communication nodes interconnected by links conveying digital signals, and a plurality of hosts to exchange data via the sub-network, said node comprising:

means for transmitting to all nodes in the network a search signal containing information representing technical features of a host to be actuated; and means for sending operating commands to said host to be actuated. (page 1, specifically "The IRC-38

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Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it.")

Regarding claim 16, "IRC-38" discloses a communication node according to Claim 15, further comprising:

at least one receiver to receive operating commands intended for said host to be actuated; and a unit to produce signals representing the operating commands. (page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...")

Regarding claim 17, "IRC-38" discloses a communication apparatus comprising:

a wireless communication means for wirelessly communicating with another wireless communication apparatus; a wired communication means for communicating with another apparatus; receiving means for receiving, by said wireless communication

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means, instruction signals for instructing to search for an apparatus possessing a predetermined technical feature; and searching means for searching, by said wired communication means, the apparatus possessing the predetermined technical features based on the received instruction signal. (page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it.")

Regarding claim 18, "IRC-38" discloses the communication apparatus according to Claim 17, further comprising controlling means for controlling the apparatus searched by said searching means. (page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output... Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it.")

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Regarding claim 19, "IRC-38" discloses the communication apparatus according to Claim 17, wherein said controlling means operates the searched apparatus by an operating command. (page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output... Now also available with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it. For example, if it sees a Sony Power On...")

Regarding claim 20, "IRC-38" discloses a method for searching for an apparatus possessing a predetermined technical feature by a communication apparatus, comprising:

a wireless receiving step of wirelessly receiving an instruction signal for instructing to search for an apparatus possessing the predetermined technical feature; and a searching step of searching for the apparatus possessing the predetermined technical feature based on the received instruction signal.

(page 1, specifically "The IRC-38 Infrared Receiver allows an infrared remote control...to control equipment using either RS-232 (Serial) output, TTL (motors, switches) output...the IRC-38 Infrared Receiver receives infrared codes from a source remote control and converts them to output signals...Now also available

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with off the shelf code set which recognizes Sony, NEC, and RC5 infrared code structures...so you can use almost any remote to control it.")

Conclusion

The prior art listed in the PTO-892 form included with this Office Action disclose methods, systems, and apparatus similar to those claimed and recited in the specification. The Examiner has cited these references to evidence the level of common knowledge of one of ordinary skill in the art at the time of the invention, to provide support for universal facts and the technical reasoning for the rejections made in this Office Action including the Examiner's broadest reasonable interpretation of the claims as required by MPEP 2111 and to evidence the plain meaning of any terms not defined in the specification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is (571) 272-3918. The examiner can normally be reached on Monday through Friday from 9AM to 5:30PM Eastern.

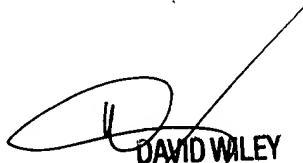
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the

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organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gcn


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100